

ESHB 2818 - S COMM AMD

By Committee on Water, Energy & Telecommunications

1 Strike everything after the enacting clause and insert the  
2 following:

3 "Sec. 1. RCW 70.95C.010 and 1990 c 114 s 1 are each amended to  
4 read as follows:

5 The legislature finds that:

6 (1) Land disposal and incineration of solid and hazardous waste can  
7 be both harmful to the environment and costly to those who must dispose  
8 of the waste.

9 (2) There are adverse effects on human health and the environment  
10 from persistent, bioaccumulative, and toxic (PBT) chemicals, heavy  
11 metals, and other chemicals found in the products we buy and use.

12 (3) Toxic chemicals end up in our soil, storm water, streams,  
13 lakes, rivers, Puget Sound, and the bodies of all human and nonhuman  
14 residents of the state; with children at a higher risk of harm from  
15 exposure to toxic chemicals than adults.

16 (4) The public has a right to know about the potential human health  
17 and environmental impacts of chemicals found in consumer products.

18 (5) Citizens, parents, businesses, workers, and government need  
19 adequate tools and information to make informed choices about safer  
20 chemical alternatives.

21 (6) It is practical and cost-effective to employ a systematic  
22 approach to prevent the use and release of toxic chemicals where  
23 cumulative costs exceed benefits due to significant or irreparable harm  
24 to human health or the environment.

25 (7) In order to ((address this problem)) approach the management of  
26 solid and hazardous waste in the most cost-effective and  
27 environmentally sound manner, and to implement the highest waste  
28 management priority as articulated in RCW 70.95.010 and 70.105.150,  
29 public and private efforts should focus on reducing the generation of  
30 waste and reducing the use of toxic chemicals. Waste and toxic

1 chemicals use reduction can be achieved by encouraging voluntary  
2 efforts to redesign industrial, commercial, production, and other  
3 processes to result in the reduction or elimination of waste byproducts  
4 and to maximize the in-process reuse or reclamation of valuable spent  
5 material.

6 (8) In the interest of protecting the public health, safety, and  
7 the environment, the legislature declares that it is the policy of the  
8 state of Washington to encourage reduction in the use of hazardous  
9 substances and reduction in the generation of hazardous waste whenever  
10 economically and technically practicable.

11 ~~((The legislature finds that))~~ (9) Hazardous wastes are generated  
12 by numerous different sources including, but not limited to, large and  
13 small business, households, and state and local government. ~~((The  
14 legislature further finds that))~~

15 (10) A goal against which efforts at waste reduction may be  
16 measured is essential for an effective hazardous waste reduction  
17 program. The Pacific Northwest hazardous waste advisory council has  
18 endorsed a goal of reducing, through hazardous substance use reduction  
19 and waste reduction techniques, the generation of hazardous waste ~~((by  
20 fifty percent by 1995. The legislature adopts this as a policy goal  
21 for the state of Washington))~~. ~~((The legislature recognizes that))~~

22 (11) A goal against which efforts at toxic chemicals use reduction  
23 may be measured is essential for an effective hazardous waste and toxic  
24 chemicals reduction program. The legislature endorses a goal of  
25 reducing, through hazardous substance use reduction and waste reduction  
26 techniques, the use of toxic chemicals in the state by fifty percent by  
27 2020 and adopts this as a policy goal for the state.

28 (12) Many individual businesses have already reduced the generation  
29 of hazardous waste through appropriate hazardous waste reduction  
30 techniques. The legislature ~~((also))~~ recognizes that there are some  
31 basic industrial processes which by their nature have limited potential  
32 for significantly reducing the use of certain raw materials or  
33 substantially reducing the generation of hazardous wastes. Therefore,  
34 the goal of reducing hazardous waste generation and use of toxic  
35 chemicals by fifty percent cannot be applied as a regulatory  
36 requirement.

37 (13) Pollution prevention plan requirements in RCW 70.95C.200 and  
38 70.95E.030 must be evaluated for their ability to help meet the 2020

1 toxic chemicals use reduction goal and fund programs found in RCW  
2 70.95C.030, 70.95C.040, and 70.95C.070. The legislature directs the  
3 department to convene a balanced stakeholder group and report its  
4 findings and recommendations by December 31, 2008.

5 **Sec. 2.** RCW 70.95C.020 and 1991 c 319 s 313 are each amended to  
6 read as follows:

7 ~~((As used in))~~ The definitions in this section apply throughout  
8 this chapter~~((, the following terms have the meanings indicated))~~  
9 unless the context clearly requires otherwise.

10 (1) "Department" means the department of ecology.

11 (2) "Director" means the director of the department of ecology or  
12 the director's designee.

13 (3) "Dangerous waste" shall have the same definition as set forth  
14 in RCW 70.105.010(5) and shall specifically include those wastes  
15 designated as dangerous by rules adopted pursuant to chapter 70.105  
16 RCW.

17 (4) "EPA/state identification number" means the number assigned by  
18 the EPA (environmental protection agency) or by the department of  
19 ecology to each generator and/or transporter and treatment, storage,  
20 and/or disposal facility.

21 (5) "Extremely hazardous waste" shall have the same definition as  
22 set forth in RCW 70.105.010(6) and shall specifically include those  
23 wastes designated as extremely hazardous by rules adopted pursuant to  
24 chapter 70.105 RCW.

25 (6) "Fee" means the annual hazardous waste fees imposed under RCW  
26 70.95E.020 and 70.95E.030.

27 (7) "Generate" means any act or process which produces hazardous  
28 waste or first causes a hazardous waste to become subject to  
29 regulation.

30 (8) "Hazardous substance" means any hazardous substance listed as  
31 a hazardous substance as of March 21, 1990, pursuant to section 313 of  
32 Title III of the Superfund Amendments and Reauthorization Act, any  
33 other substance determined by the director by rule to present a threat  
34 to human health or the environment, and all ozone depleting compounds  
35 as defined by the Montreal Protocol of October 1987.

36 (9)(a) "Hazardous substance use reduction" means the reduction,

1 avoidance, or elimination of the use or production of hazardous  
2 substances without creating substantial new risks to human health or  
3 the environment.

4 (b) "Hazardous substance use reduction" includes proportionate  
5 changes in the usage of hazardous substances as the usage of a  
6 hazardous substance or hazardous substances changes as a result of  
7 production changes or other business changes.

8 (10) "Hazardous substance user" means any facility required to  
9 report under section 313 of Title III of the Superfund Amendments and  
10 Reauthorization Act, except for those facilities which only distribute  
11 or use fertilizers or pesticides intended for commercial agricultural  
12 applications.

13 (11) "Hazardous waste" means and includes all dangerous and  
14 extremely hazardous wastes, but does not include radioactive wastes or  
15 a substance composed of both radioactive and hazardous components and  
16 does not include any hazardous waste generated as a result of a  
17 remedial action under state or federal law.

18 (12) "Hazardous waste generator" means any person generating  
19 hazardous waste regulated by the department.

20 (13) "Office" means the office of waste reduction and sustainable  
21 production.

22 (14) "Plan" means the plan provided for in RCW 70.95C.200.

23 (15) "Person" means an individual, trust, firm, joint stock  
24 company, partnership, association, state, public or private or  
25 municipal corporation, commission, political subdivision of a state,  
26 interstate body, the federal government, including any agency or  
27 officer thereof, and any Indian tribe or authorized tribal  
28 organization.

29 (16) "Process" means all industrial, commercial, production, and  
30 other processes that result in the generation of waste.

31 (17) "Recycled for beneficial use" means the use of hazardous  
32 waste, either before or after reclamation, as a substitute for a  
33 commercial product or raw material, but does not include: (a) Use  
34 constituting disposal; (b) incineration; or (c) use as a fuel.

35 (18) "Recycling" means reusing waste materials and extracting  
36 valuable materials from a waste stream. Recycling does not include  
37 burning for energy recovery.

1       (19) "Toxic chemicals" means chemicals with an adverse effect on  
2 human health and the environment. "Toxic chemicals" includes but is  
3 not limited to those that are persistent, bioaccumulative, toxic,  
4 endocrine disruptive, carcinogenic, mutagenic, neurotoxic, immunotoxic,  
5 toxic to reproduction, or have degradation products that exhibit any of  
6 these characteristics.

7       (20) "Treatment" means the physical, chemical, or biological  
8 processing of waste to render it completely innocuous, produce a  
9 recyclable by-product, reduce toxicity, or substantially reduce the  
10 volume of material requiring disposal as described in the priorities  
11 established in RCW 70.105.150. Treatment does not include  
12 incineration.

13       (~~(20)~~) (21) "Used oil" means (a) lubricating fluids that have  
14 been removed from an engine crankcase, transmission, gearbox, hydraulic  
15 device, or differential of an automobile, bus, truck, vessel, plane,  
16 heavy equipment, or machinery powered by an internal combustion engine;  
17 (b) any oil that has been refined from crude oil, used, and as a result  
18 of use, has been contaminated with physical or chemical impurities; and  
19 (c) any oil that has been refined from crude oil and, as a consequence  
20 of extended storage, spillage, or contamination, is no longer useful to  
21 the original purchaser. "Used oil" does not include used oil to which  
22 hazardous wastes have been added.

23       (~~(21)~~) (22) "Waste" means any solid waste as defined under RCW  
24 70.95.030, any hazardous waste, any air contaminant as defined under  
25 RCW 70.94.030, and any organic or inorganic matter that shall cause or  
26 tend to cause water pollution as defined under RCW 90.48.020.

27       (~~(22)~~) (23) "Waste generator" means any individual, business,  
28 government agency, or any other organization that generates waste.

29       (~~(23)~~) (24) "Waste reduction" means all in-plant practices that  
30 reduce, avoid, or eliminate the generation of wastes or the toxicity of  
31 wastes, prior to generation, without creating substantial new risks to  
32 human health or the environment. As used in RCW 70.95C.200 through  
33 70.95C.240, "waste reduction" refers to hazardous waste only.

34       **Sec. 3.** RCW 70.95C.030 and 1998 c 245 s 133 are each amended to  
35 read as follows:

36       (1) There is established in the department an office of waste  
37 reduction and sustainable production. The office shall use its

1 authorities to encourage the voluntary reduction of hazardous substance  
2 usage and waste generation by waste generators and hazardous substance  
3 users, and encourage the production of safer consumer products. The  
4 office (~~shall prepare and submit a quarterly progress report to the~~  
5 ~~director~~) will promote the following purposes through research,  
6 development, technology demonstration, technology transfer, education,  
7 outreach, recognition, and training programs:

8 (a) Innovative and cost-effective methods for reducing or  
9 eliminating the use of toxic substances in manufacturing and other  
10 processes through research and development of environmental  
11 technologies that result in sustainable production and toxic chemical  
12 use reduction over the course of product life cycles;

13 (b) Pollution prevention as a means for preventing the risks  
14 associated with the use and production of hazardous substances,  
15 including risks to human health and the environment;

16 (c) Pollution prevention as a means for reducing energy and  
17 resource consumption, and reducing or eliminating the generation of  
18 hazardous substances, pollution, and waste;

19 (d) Implementation of affordable and cost-effective methods of  
20 achieving pollution prevention as a means of sustaining and  
21 safeguarding the competitive advantage of large and small businesses in  
22 the state and advancing innovation in the reduction of energy and  
23 resource consumption and the reduction or elimination of hazardous  
24 substances, pollution, and waste; and

25 (e) Voluntary implementation of pollution prevention as a means for  
26 meeting the requirements of state or federal environmental laws or  
27 regulations.

28 (2) The office shall prepare and submit a biennial progress report  
29 to the legislature.

30 (3) The office shall: (a) Be the coordinating center for all state  
31 agency programs that provide technical assistance to waste generators  
32 and hazardous substance users; (b) work with federal, state, and local  
33 agencies and private organizations administering programs related to  
34 pollution prevention, energy consumption, resource consumption, the use  
35 and generation of hazardous substances, or the generation of waste or  
36 pollution; and (~~shall~~) (c) serve as the state's lead agency and  
37 promoter for such programs.

1       (4) In addition to (~~this~~) the coordinating function under  
2 subsection (3) of this section, the office shall encourage hazardous  
3 substance use reduction and waste reduction by:

4       (a) Providing for the rendering of advice and consultation to waste  
5 generators and hazardous substance users on hazardous substance use  
6 reduction and waste reduction techniques, including assistance in  
7 preparation of plans provided for in RCW 70.95C.200;

8       (b) Sponsoring or co-sponsoring with public or private  
9 organizations technical workshops and seminars on waste reduction and  
10 hazardous substance use reduction;

11       (c) Administering a waste reduction and hazardous substance use  
12 reduction database and hot line providing comprehensive referral  
13 services to waste generators and hazardous substance users;

14       (d) Administering a waste reduction and hazardous substance use  
15 reduction research and development program;

16       (e) Coordinating a waste reduction and hazardous substance use  
17 reduction public education program that includes the utilization of  
18 existing publications from public and private sources, as well as  
19 publishing necessary new materials on waste reduction;

20       (f) Recommending to institutions of higher education in the state  
21 courses and curricula in areas related to waste reduction and hazardous  
22 substance use reduction; and

23       (g) Operating an intern program in cooperation with institutions of  
24 higher education and other outside resources to provide technical  
25 assistance on hazardous substance use reduction and waste reduction  
26 techniques and to carry out research projects as needed within the  
27 office.

28       **Sec. 4.** RCW 70.95C.040 and 1990 c 114 s 5 are each amended to read  
29 as follows:

30       (1) The office shall establish a waste reduction and hazardous  
31 substance use reduction consultation program to be coordinated with  
32 other state waste reduction and hazardous substance use reduction  
33 consultation programs.

34       (2) The director may grant a request by any waste generator or  
35 hazardous substance user for advice and consultation on waste reduction  
36 and hazardous substance use reduction techniques and assistance in  
37 preparation or modification of a plan, executive summary, or annual

1 progress report, or assistance in the implementation of a plan required  
2 by RCW 70.95C.200. Pursuant to a request from a facility such as a  
3 business, governmental entity, or other process site in the state, the  
4 director may visit the facility making the request for the purposes of  
5 observing hazardous substance use and the waste-generating process,  
6 obtaining information relevant to waste reduction and hazardous  
7 substance use reduction, rendering advice, and making recommendations.  
8 No such visit may be regarded as an inspection or investigation, and no  
9 notices or citations may be issued, or civil penalty be assessed, upon  
10 such a visit. A representative of the director providing advisory or  
11 consultative services under this section may not have any enforcement  
12 authority.

13 (3) Consultation and advice given under this section shall be  
14 limited to the matters specified in the request and shall include  
15 specific techniques of waste reduction and hazardous substance use  
16 reduction tailored to the relevant process. In granting any request  
17 for advisory or consultative services, the director may provide for an  
18 alternative means of affording consultation and advice other than on-  
19 site consultation.

20 (4) Any proprietary information obtained by the director while  
21 carrying out the duties required under this section shall remain  
22 confidential and shall not be publicized or become part of the database  
23 established under RCW 70.95C.060 without written permission of the  
24 requesting party.

25 (5) The consultation program shall provide engineering technical  
26 assistance services to businesses and manufacturers in the state  
27 seeking to use safer chemical alternatives, reduce waste, increase  
28 efficiency, and redesign industrial processes. The director may award,  
29 on a competitive basis, within amounts appropriated, contracts to  
30 public or private institutions able to offer these services.

31 **Sec. 5.** RCW 70.95C.070 and 1988 c 177 s 7 are each amended to read  
32 as follows:

33 (1) The office (~~may~~) shall administer a waste reduction and safer  
34 chemical alternatives research and development program. The director  
35 may contract with any public or private organization for the purpose of  
36 developing methods and technologies that achieve waste and toxic

1 chemical use reduction. The office shall establish and maintain a  
2 database of chemicals used in the state to help meet the 2020 toxic  
3 chemicals use reduction goal.

4 (2) The office shall consult with the department of health  
5 regarding the health effects of toxic chemicals and safer chemical  
6 alternatives.

7 (3) All research performed and all methods or technologies  
8 developed as a result of a contract entered into under this section  
9 shall become the property of the state and shall be incorporated into  
10 the database system established under RCW 70.95C.060.

11 ~~((+2))~~ (4) Any contract entered into under this section shall be  
12 awarded only after requests for proposals have been circulated to  
13 persons, firms, or organizations who have requested that their names be  
14 placed on a proposal list. The director shall establish a proposal  
15 list and shall review and evaluate all proposals received.

16 (5) The waste reduction and safer chemical alternatives research  
17 and development program may establish or participate in a multistate  
18 chemicals clearinghouse to collect and share information and resources  
19 related to safer chemical alternatives. Responsibilities for the  
20 clearinghouse include the following:

21 (a) Share information on safer chemicals initiatives at the state  
22 and local level;

23 (b) Collaborate on interstate efforts;

24 (c) Provide fact sheets and guidance documents on chemical use,  
25 hazards, and substitutes;

26 (d) Provide a forum for receiving and disseminating United States  
27 environmental protection agency or other suitable chemical use and  
28 hazard data; and

29 (e) The department may, on a biennial basis, convene a one-day  
30 conference that brings together representatives from large and small  
31 businesses, government agencies, private agencies, and the general  
32 public to discuss progress and exchange ideas consistent with toxic  
33 chemicals use reduction.

34 NEW SECTION. Sec. 6. A new section is added to chapter 70.95C RCW  
35 to read as follows:

36 The department may adopt rules to fully implement this chapter."

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1       On page 1, line 2 of the title, after "ecology;" strike the  
2 remainder of the title and insert "amending RCW 70.95C.010, 70.95C.020,  
3 70.95C.030, 70.95C.040, and 70.95C.070; and adding a new section to  
4 chapter 70.95C RCW."

EFFECT: Removes the exclusion for chemicals used in agricultural production from the definition of toxic chemicals.

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